

REMARKS

This amendment is submitted with a Request for Continued Examination in response to the outstanding final Official Action mailed September 6, 2007. In view of the above claim amendments and the following remarks, reconsideration by the Examiner and allowance of this application is respectfully requested.

Claims 75, 78, 80, 99, 102, and 104 are amended to more particularly point out and distinctly claim the subject matter Applicant regards as the invention. In particular, the claims have been amended to clarify that the magnetic card is linked to the third party account through which fund transfers are performed and control is exercised over specific goods and services that can be purchased. This is disclosed in the specification at page 20, lines 19 – 29 and does not introduce new matter.

Claims 75, 88 and 99 are also amended to require that the fund depositor account and the third party account communicate through an external bank, credit card or atm network. This was contained in Claims 76, 89 and 100, support for which has already been identified. This amendment to Claims 75, 88 and 99 therefore does not introduce new matter. With their limitation moved to Claims 75, 88 and 99, Claims 76, 89 and 100 have been canceled.

Instead, the claim amendments overcome the Examiner's rejections and place the application in condition for allowance. Reconsideration of these and the prior art rejections in view of the following remarks is therefore respectfully requested.

Turning to the Official Action, Claims 75 – 85, 87 – 96, 98 – 108 and 110 were rejected under 35 U.S.C. §103(a) as being unpatentable for obviousness over Nakano et al., U.S. Patent No. 5,845,260 in view of Anderson et al., U.S. Patent No. 5,706,442 and Dorrough et al., U.S. Patent No. 5,287,269. Nakano et al. was cited as disclosing using information entered by a depositor with a PC to create a third party account linked to a depositor account, periodically and automatically transferring funds from the depositor account into the third party account, limiting the funds spent and how the fund are spent, and viewing information on how the funds were spent.

The Examiner acknowledged that Nakano et al. did not disclose supplying the

depositor through a CRT or LCD output device information stored on fund transferees and corresponding payment amounts for the third party account but cited Anderson et al. as disclosing this. The Examiner also acknowledged that neither Nakano et al. or Anderson et al. disclosed issuing an encoded card to a second user, but cited Dorrough et al. as disclosing this. This rejection is respectfully traversed for the reasons set forth hereinafter.

In the previous response applicant explained how the Application filed April 16, 1996 provides enabling and therefore priority support for (A) creating a third party account linked to a bank or credit card account of a fund depositor; (B) programming a periodic and automatic transfer of funds into the third party account from the fund depositor account; (C) encoding a magnetic card with third party account information permitting cash withdrawals or fund transfers as payments for goods or services; (D) issuing the magnetic card to a son or daughter of the fund depositor; (E) storing information on fund transferees and corresponding payment amounts. The April 16, 1996 application also disclosed that the magnetic card issued to the son or daughter “to spend only what is in the account.” This is a teaching that the magnetic card is linked to the son or daughter’s account.

Furthermore, independent of any Rule 131 Declaration filed, the April 16, 1996 application was initially mailed by Applicant on January 5, 1996 and received by the Patent Office on January 11, 1996 but rejected as an incomplete application. The Notice of Incomplete Application was mailed on March 15, 1996 and Applicant mailed a reply within two to three weeks that resulted in the Application receiving an April 16, 1996 filing date. This demonstrates conception of the invention described in the Application filed April 16, 1996 on a date prior to the January 24, 1996 filing date of Nakano et al. followed by the diligent constructive reduction to practice of the invention on April 16.

Furthermore the Rule 131 Declaration provides proof that Applicant mailed the Application to himself on a date prior to the December 20, 1995 filing date of Anderson et al. and the January 1, 2006 effective date of the GATT treaty as it relates to the Japanese priority claim of Nakano et al. Applicant need only demonstrate diligence from December 20, 1995 until April 16, 1996 to eliminate Anderson et al. and Nakano et al. as prior art. Only eleven business days elapsed between the filing date of Anderson et al. and the date on which Applicant mailed what he believed to be a fully complete patent application. When informed

that he did not, he diligently revised the application and filed an application deemed complete.

Based on the evidence of record Applicants have demonstrated that Anderson et al. and Nakano et al. are not prior art. Because Anderson et al. and Nakano et al. are not prior art, reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

In the alternative Applicant has amended Claims 75, 78, 80, 99, 102 and 104 to clarify that the magnetic card is linked to the third party account through which fund transfers are performed and control is exercised over specific goods and services that can be purchased. According to the Examiner without this limitation the claims are obvious in view of Dorrough et al. teaching issuing a magnetic card to a child encoded with account information but not linked to a bank or credit card account of a parent. To further distinguish of Dorrough et al. and Nakano et al., Applicants have amended Claims 75, 88 and 99 to require the fund depositor account and the third party account to communicate through an external bank, credit card or atm network. Dorrough et al. and Nakano et al. only disclosed closed network systems and fail to teach or suggest the subject matter of the amended claims on this basis.

That is, the linkage of the magnetic card to the third party account through an external bank, credit card or ATM network is critical because it is necessary in order for the son or daughter to access funds added to the account by periodic and automatic allowance transfer to purchase goods and services in commercial retail establishments. This is neither taught nor suggested by Nakano et al. or Dorrough et al. Neither publication teaches or suggests a means by which funds can be periodically and automatically transferred to a third party account linked to a magnetic card that can be used to access the third party account to make purchases in commercial retail establishments. Claims 75, 88 and 99, as amended therefore patentably define over the cited combination of prior art under 35 U.S.C. §103(a).

To be complete, Applicants note that while e-mail exchange of information was known as of the June 16, 1997 filing date of the application in which e-mail delivery of

Applicant(s): Picciallo
Application No.: 09/478,051

Docket No. P22,425-B USA

account information was first disclosed, the use of e-mail to supply information to bank account fund depositors regarding fund transferees and corresponding payment amounts was not known. The e-mail dependent claims provide an independent basis for patentability over the cited combination of prior art.

Accordingly, Claims 75, 88, 99 as amended, and the claims depending therefrom, patentably define over the cited combination of Nakano et al. in view of Anderson et al. and Darrough et al. under 35 U.S.C. §103(a). Reconsideration by the Examiner and withdrawal of this rejection is therefore respectfully requested.

In view of the foregoing claim amendments and remarks, this application is now in condition for allowance. Reconsideration is respectfully requested. The Examiner is requested to telephone the undersigned to discuss any remaining issues in this application to be resolved.

Finally, the Examiner is authorized to charge applicant's Deposit Account No. 50-1943 for any additional charges in connection with this Amendment.

Respectfully submitted,

/Peter J. Butch III/
PETER J. BUTCH, III
Reg. No. 32,203

Fox Rothschild LLP
997 Lenox Dr. Bldg. 3
Lawrenceville, NJ 08648
Telephone: 609-844-3035
Facsimile: 609-896-1469